

According to 86 Ill. Adm. Code 150.401, the Use Tax shall whenever possible and practicable when collected, be stated as a distinct item separate and apart from the selling price of the tangible personal property. (This is a GIL).

June 20, 2002

Dear Xxxxx:

This letter is in response to your letter dated April 29, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

A ruling is respectfully requested concerning the practice of including sales tax in the purchase price of items sold at trade shows in Illinois. At issue is the regulation that the sign procedure (described 150.401) may not be relied on to prove collection of the tax by the retailer in types of transactions in which such retailer does issue invoices or sales tickets to customers.

The company is requesting permission, when posting a sign at trade shows which states that sales tax is included in the purchase price, to issue a hand-written invoice or receipt to the customers which includes a printed comment stating that 'tax of x% is included in the purchase price' in lieu of providing the customer an invoice/receipt which details sales tax paid as a separate line item.

The company sells books, instructor guides, software, videos and other educational materials to teachers and professors at shows. Although the company posts a sign stating that tax is included in the purchase price of each item, many of the customers request a receipt or invoice for their purchases in order to be reimbursed by their employer.

Due to the inherent nature of trade shows, it is not practicable or efficient for staff to calculate sales tax and then manually annotate such on the hand-written invoice or receipt when requested by a customer. Approval of this request allows our booth staff to provide excellent customer service by dealing in whole dollar amounts, saving time by not having to make change. The company then remits sales tax based upon total booth sales.

By including a printed comment ('tax of x% is included in the purchase price') on trade show hand-written receipts, we feel that the company would be complying with the spirit of Illinois Department of Revenue Regulations Sections 150.401 and 150.1305 in a practicable manner.

Thank you for taking the time to consider this request. If you require any additional information to respond to this request, please contact me.

We look forward to hearing from you in response to this request.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (2000 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (2000 State Bar Edition).

According to 86 Ill. Adm. Code 150.401, the Use Tax shall whenever possible and practicable when collected, be stated as a distinct item separate and apart from the selling price of the tangible personal property. It is to be assumed that the seller is not collecting the tax if he does not state it as a separate item from the selling price of the tangible personal property. However, 86 Ill. Adm. Code 150.1305 describes the circumstances that warrant public display of a sign stating that the selling price of the tangible personal property includes the Use Tax and the local Retailers' Occupation Tax if applicable.

Section 150.1305 states that if a retailer is required or authorized to collect the Use Tax, his records must show that he states such tax separately to the purchaser from the selling price of the tangible personal property which he is selling. However, the Department can waive this requirement if it finds that it is not possible, under the facts of the case, for the retailer to collect the tax from the purchaser as a separate item from the selling price.

The Department can allow the retailer to show compliance with the Section 150.1305 separately stated requirement by publicly posting an appropriate sign. However, the sign procedure may not be relied on to prove collection of the tax by the retailer from his customers as a separate item in types of transactions in which such retailer does issue invoices or sales tickets to customers.

If you issue receipts for sales to your customers, the Use Tax must be separately stated on the invoice.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.